

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No.1380 of 1986

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For Approval and Signature:

Hon'ble MR.JUSTICE R.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?  
1 to 5 : No

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DALSUKHBHAI MANSUKHBHAI

Versus

STATE OF GUJARAT

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Appearance:

MR PS PATEL for Petitioner

Ms.S.D. Talati, ASSTT. GOVERNMENT PLEADER for  
Respondent No.1 to 3.

MR SHANTILAL S SHAH for Respondent No. 4

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CORAM : MR.JUSTICE R.A.MEHTA

Date of decision: 24/12/97

ORAL JUDGEMENT :

The petitioner and respondent no.4 are brothers.  
The disputed land is survey no.115 of village Mojari,  
Taluka Godhra. The petitioner and his two cousins made  
an application dated 11.9.1983 to the Mamlatdar for  
entering their names in the revenue record in respect of

the above survey no.115. In the application it is stated that survey no.105 is an ancestral and joint property.

2. It is further alleged that the adjoining survey no.115 is Government waste land and this was purchased some 15 - 20 years prior to 1983 (some time in 1961), in the name of Maganbhai Mansukhbhai, respondent no.4 herein. It is further submitted that this was purchased on behalf of the family jointly in his name only as he was the eldest member of the family.

3. The above application dated 11.9.1983 has been rejected on 28.8.1984. Hence the present petition in 1986.

4. There is no dispute that the Government waste land has been purchased in 1961 only in the name of Maganbhai Mansukhbhai, respondent no.4 herein. Therefore, the Government record and the revenue record would stand accordingly.

5. If the petitioner has any claim of joint ownership that will have to be established in civil court and it would be difficult for the revenue authority to decide civil rights of the party. In any case, the decision of the revenue authority would not be final and it would be subject to determination by the civil court. Therefore, the only proper remedy is to establish rights in civil court and in this proceeding under Article 226 or 227 of the Constitution of India, the High Court cannot grant any relief to the petitioner.

6. Hence the petition is dismissed. Rule is discharged, leaving the petitioner to his remedy in civil court.

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